

In the United States District  
Court for the District of

New Mexico

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

JUN 07 2021

MITCHELL R. ELFERS  
CLERK

Civil action No.  
20 CV-1011 MV/JFR

Benzamin Hinds #87494  
Plaintiff

Carolyn Bafela et al,  
Defendants

### Motion: Summary Judgment

Comes now, Plaintiff Benzamin Hinds in Pro se,  
respectfully requesting this court to grant this motion  
for summary judgment in support of this motion  
the Plaintiff states the following:

- 1.) on or about October 2<sup>nd</sup> 2020 Plaintiff filed a Prisoners civil rights complaint against the above named defendants, stating claims of civil rights violations. Claim 1: cruel and unusual punishment of rights secured in the 14<sup>th</sup> amendment + Due Process clause By way of the 8<sup>th</sup> amendment. Claim 2: Deliberate indifference, negligence, negligent supervision. Claim 3: Deprivation of civil rights under 42 U.S.C 1983 By the above named defendants under the 8<sup>th</sup> and 14<sup>th</sup> amendment.
- 2.) on October 2<sup>nd</sup> 2020 Plaintiff filed motion of financial affidavit to process in forma pauperis.
- 3.) on October 2<sup>nd</sup> 2020 Plaintiff filed motion for appointment of counsel.

1.) on october 6<sup>th</sup> 2020 Plaintiff received second order to cure Deficiency.

5.) on october 19<sup>th</sup> Plaintiff corrected financial affidavit with inmate account statement.

6.) on november 2<sup>nd</sup> 2020 defendants and defendants attorney signed waiver of service of summons and in doing so acknowledged that they "must" file and serve an answer or a motion under rule 12 within 60 days from 11/02/2020, "the date when this request was sent". If Defendants failed to do so, a default judgment will be entered against Defendants and defendants attorney.

7.) on february 19<sup>th</sup> 2021 Plaintiff filed an amended verified civil rights complaint.

3.) on february 19<sup>th</sup> 2021 Plaintiff answered Defendants response to Plaintiffs motion for Default judgement

1.) on march 11<sup>th</sup> 2021 Plaintiff responded to defendants Notice of errate.

0.) Plaintiff respectfully requests this court enter a order of all relief requested in complaint as a result of the defendants failure to adhere to the conditions laid out in waiver of service of summons which clearly states "I also understand that I, or the entity I represent, must file or serve an answer or a motion under rule 12 within 60 days from 11/02/2020, the date when this request was sent, if I fail to do so, a Default judgment will Be entered against me or the entity I represent". In all fairness this Document was created By the defendants and should Be Honored.

11.) it is for all the reasons outlined in this motion that the Plaintiff respectfully requests this motion for Summary Judgement and that all reliefs outlined in the complaint be granted.

Benjamin Hinds #87494  
6900 W. millen Drive  
Hobbs NM 88244

Respectfully  
Submitted  
Benjamin Hinds  
Benjamin Hinds

I hereby certify that a copy of the foregoing Document was mailed to:

the United States District  
Court for the District of New Mexico  
333 Lomas Blvd NW Suite 270  
Albuquerque New Mexico  
87102

on the 31<sup>st</sup> Day of May

Benjamin Hinds

6900 W. Millen Drive  
Hobbs NM  
88244

### Verification

I Benjamin Hinds under Penalty of Perjury under Laws of the State of New Mexico State that the information contained therein is true and correct to the Best of my knowledge

Benjamin Hinds  
Signature P105e

